

National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL
Advice Memorandum

DATE: June 9, 1997

TO: James J. McDermott, Regional Director, Region 31

FROM: Barry J. Kearney, Associate General Counsel, Division of Advice

SUBJECT: University of Southern California, Case 31-CA-22532

512-5024-3300, 512-5024-3500, 512-5024-4133

This Section 8(a)(1) case was submitted for advice on whether property owner USC was privileged to videotape the organizing activities of Union representatives and others including employees of the Employer, a janitorial service contractor to USC.

We conclude, in agreement with the Region, that the Region should dismiss the charge because USC had sufficient justification for the instant videotaping. ⁽¹⁾ USC notes that the three incidents of videotaping complained of here all recorded colorable violations of an outstanding state court injunction, which enjoined Union demonstrations absent 24 hours prior notice of time and place, with no more than 5 demonstrators per USC building and no more than 4 buildings at one time. The videotaped incidents occurred after the Union had provided USC with a defective notice, received less than 24 hours before the planned events. The videotaped incidents also involved buildings not contained in the Union's notice, and a building where prior a report of the blocking of access had been reported. We agree that these circumstances provided USC with ample justification.

B.J.K.

¹ The photographing of Section 7 activity may not be justified by mere suspicion that "something 'might' happen"; the employer instead must "reasonably ... have anticipated misconduct..." F.W. Woolworth Co., 310 NLRB 1197 (1993). See, e.g., Sonoma Mission Inn & Spa, 322 NLRB No. 160 (1997)(videotaping became lawful only after employer received hotel guest complaints of misconduct).